

(b) *Answer to motions.* Any party may serve and file a written response to a motion within ten (10) days after service of the motion upon him, or within such longer or shorter period as is established by these rules, or as the Judgment Officer or the Commission may direct.

(c) *Dismissal*—(1) *By the Judgment Officer.* A Judgment Officer, acting upon his own motion, may

(i) Dismiss the entire proceeding without prejudice to counterclaims, if he finds that the matters alleged in the complaint fail to state a claim cognizable in reparations; or

(ii) Order dismissal of any claim, counterclaim, or party from the proceeding if he finds, after review of the record, that such claim or counterclaim (by itself or as applied to any party) is not cognizable in reparations.

(2) *Motion for dismissal by a party.* Any party who believes that grounds exist for dismissal of the entire complaint, or of any claim therein, or of any counterclaim or party from the proceeding, may file a motion for dismissal specifying the claims or parties to be dismissed and the reasons therefor. Upon consideration of the whole record, the Judgment Officer may grant or deny such motion, in whole or in part.

(3) *Content and effect of order of dismissal.* Any order of dismissal entered pursuant to this rule shall contain a brief statement of the findings and conclusions which serve as the basis for the order. An order of dismissal of the entire proceeding pursuant to this rule shall have the effect of an initial decision (see §12.213(d)), and may be appealed to the Commission in accordance with the requirements of §12.401 of these rules.

§ 12.206 Pre-decision conferences.

At any time after a summary decisional proceeding has been commenced pursuant to §12.26(b), the Judgment Officer may, in his discretion, conduct one or more pre-decision conferences to be held in Washington, DC or by telephone, with all parties, for the purposes of:

(a) Discussing the advisability of electing the voluntary decisional procedure;

(b) Encouraging settlement of the entire case, or any part thereof, (such discussions may be *ex parte* with the consent of all parties);

(c) Simplifying or clarifying issues;

(d) Obtaining stipulations, admissions of fact and of authenticity of documents;

(e) Discussing amendments or supplements to the pleadings;

(f) Encouraging an early settlement of disputes relating to discovery; and

(g) Discussing any matters of relevance in the proceeding.

At or following the conclusion of such a conference, the Judgment Officer may serve a pre-decision memorandum and order setting forth the agreements, if any, reached by the parties, any procedural determinations made by him, and the issues for resolution not disposed of by the admissions or agreements by the parties. Such order, when issued, shall control the subsequent course of the proceeding unless modified to prevent injustice.

§ 12.207 Summary disposition.

(a) *Filing of motions, answers.* Any party who believes that there is no genuine issue of material fact to be determined and that he is entitled to a decision as a matter of law concerning all issues of liability in the proceeding may file a motion for summary disposition at any time until the parties have concluded their submissions of proof. Any adverse party, within ten (10) days after service of the motion, may file and serve opposing papers or may countermove for summary disposition.

(b) *Supporting papers.* A motion for summary disposition shall include a statement of the material facts as to which the moving party contends there is no genuine issue, supported by the pleadings, and by affidavits, other verified statements, admissions, stipulations, and interrogatories. The motion may also be supported by briefs containing points and authorities in support of the contention of the party making the motion. When a motion is made and supported as provided in this section, unless otherwise ordered by the Judgment Officer, an adverse party may not rest upon the mere allegations, but shall serve and file in response a statement setting forth those